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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER

SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,594

Applicant(s)

HENDRICKS, JOHN S.

Examiner

James Sheleheda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/15/02, 3/17/03, 5/5/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Strubbe (5,223,924) (Strubbe '924).

Strubbe (5,223,924) (Strubbe '924) incorporates by reference Strubbe et al. (5,047,867) (Strubbe '867) [see Strubbe '924 at column 2, lines 31-49 and column 4, lines 27-38].

As to claim 1, Strubbe '924 discloses a set top terminal for generating an interactive electronic program guide for display on a television connected to the set top terminal (see Strubbe '924 at Fig. 1; column 1, line 56-column 2, line 15), the terminal comprising:

means for retrieving user information for a subscriber (see Strubbe '924 at column 4, line 59-column 5, line 32);

means for receiving a television signal (see Strubbe '924 at column 3, lines 38-58);

means for extracting individual programs from the television signal (see Strubbe '924 at column 3, lines 38-58);

means for generating an electronic program guide for controlling display of content on a television screen (see Strubbe '924 at column 3, line 59-column 4, line 27 and column 5, lines 33-47), the guide comprising:

a favorites menu including names of programs available for selection (see Strubbe '924 at column 5, lines 12-47), wherein the programs included in the favorites menu are based on the user information (see Strubbe '924 at column 5, lines 12-47); and

means for receiving selection signals from a user input (see Strubbe '924 at column 4, line 59-column 5, line 47).

As to claim 2, Strubbe '924 discloses wherein the means for retrieving user information includes means for requesting information from the subscriber (see Strubbe '924 at column 5, lines 12-26) and means for receiving a response from the subscriber (see Strubbe '924 at column 4, line 59-column 5, line 26).

As to claim 3, Strubbe '924 discloses wherein the means for retrieving user information includes means for identifying frequently watched programs (see Strubbe '867 at column 5, lines 20-32 and see Strubbe '924 at column 5, lines 23-32) and means for storing in memory identifiers of the frequently watched programs (see

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Strubbe '867 at column 5, lines 20-32 and column 4, lines 23-29 and see Strubbe '924 at column 5, lines 23-32).

As to claim 4, Strubbe '924 discloses wherein the means for retrieving user information includes means for identifying frequently watched channels (see Strubbe '867 at Fig. 6a; column 5, lines 20-32, column 4, lines 23-29 and column 1, lines 50-62) and means for storing in memory the frequently watched channels (see Strubbe '867 at column 5, lines 20-32, column 4, lines 23-29 and column 1, lines 50-62).

As to claim 5, Strubbe '924 discloses wherein the menu includes a list of frequently watched programs (see Strubbe '867 at Fig. 6a; column 5, lines 20-32, column 4, lines 23-29 and column 1, lines 50-62).

As to claim 6, Strubbe '924 discloses means for receiving program content information (see Strubbe '924 at column 3, line 59-column 4, line 16) and means for matching the program content information with the user information (see Strubbe '924 at column 5, lines 33-47 and column 6, lines 5-19), and wherein the means for generating includes means for generating the favorites menu to display programs selected by the means for matching (see Strubbe '924 at column 5, lines 33-47 and column 6, lines 5-19).

As to claim 7, Strubbe '924 discloses a set top terminal (see Strubbe '924 at Fig. 1; column 1, line 56-column 2, line 15), comprising:

means for receiving subscriber information including information about television viewing preferences (see Strubbe '924 at column 4, line 59-column 5, line 32);

a memory that stores the subscriber information (see Strubbe '924 at Fig. 3, 54, column 4, line 59-column 5, line 32);

means for receiving a television signal from an operations center (see Strubbe '924 at column 3, lines 38-58);

means for extracting from the signal individual programs for display on a television associated with the terminal (see Strubbe '924 at Fig. 1; column 3, lines 38-58); and

means for generating an interactive program menu on the television (see Strubbe '924 at column 3, line 59-column 4, line 27 and column 5, lines 33-47), listing a group of available programs (see Strubbe '924 at column 5, lines 12-47), the group being based on the subscriber information (see Strubbe '924 at column 5, lines 12-47).

As to claim 8, Strubbe '924 discloses means for receiving a signal from a user input device selecting one of the available programs (see Strubbe '924 at column 3, lines 9-58, column 4, lines 27-38 and column 5, lines 33-42), and means for causing the selected program to be displayed on the television (display, 25; see Strubbe '924 at column 3, lines 9-58, column 4, lines 27-38 and column 5, lines 33-42).

As to claim 9, Strubbe '924 discloses wherein the television viewing preferences include frequently watched programs (see Strubbe '867 at Fig. 6a; column 5, lines 20-32, column 4, lines 23-29 and column 1, lines 50-62).

As to claim 10, Strubbe '924 discloses wherein the television viewing preferences include frequently watched channels (see Strubbe '867 at Fig. 6a; column 5, lines 20-32, column 4, lines 23-29 and column 1, lines 50-62).

As to claim 11, Strubbe '924 discloses wherein the means for receiving subscriber information comprises means for automatically tracking information related to viewing habits of the subscriber (see Strubbe '924 at column 5, lines 23-32).

As to claim 12, Strubbe '924 discloses wherein the means for automatically tracking comprises automatically tracking information related to frequently watched programs (see Strubbe '924 at column 5, lines 23-32).

As to claim 13, Strubbe '924 discloses wherein the means for receiving subscriber information comprises means for activating a learning mode (see Strubbe '924 at column 5, lines 23-32) and means for receiving subscriber information while the learning mode is activated (see Strubbe '924 at column 5, lines 23-32).

As to claim 14, Strubbe '924 discloses wherein the means for receiving subscriber information comprises means for querying a subscriber (see Strubbe '924 at column 5, lines 12-26), and means for receiving the viewing information in response to the query (see Strubbe '924 at column 4, line 59-column 5, line 26).

As to claim 15, Strubbe '924 discloses means for receiving program content information for the individual programs from the operations center (see Strubbe '924 at column 3, line 59-column 4, line 16); and

means for matching individual programs with subscriber information using the program content information (see Strubbe '924 at column 5, lines 33-47 and column 6, lines 5-19), and wherein the means for generating comprises means for generating the programs identified by the means for matching (see Strubbe '924 at column 5, lines 33-47 and column 6, lines 5-19).

As to claim 16, Strubbe '924 discloses a set top terminal for generating a customized menu of available programs for selection by a user (see Strubbe '924 at Fig. 1; column 1, line 56-column 2, line 15), the terminal comprising:

means for receiving a television signal (see Strubbe '924 at column 3, lines 38-58);

means for extracting individual programs from the television signal (see Strubbe '924 at Fig. 1; column 3, lines 38-58);

means for matching individual programs to a user of the terminal (see Strubbe '924 at column 5, lines 33-47 and column 6, lines 5-19), using user information stored in a user profile (see Strubbe '924 at Fig. 3, 54, column 4, line 59-column 5, line 32); and

means for generating an interactive program menu (see Strubbe '924 at column 3, line 59-column 4, line 27 and column 5, lines 33-47) that displays selected programs identified by the means for matching (see Strubbe '924 at column 5, lines 12-47 and column 6, lines 5-24).

As to claim 17, Strubbe '924 discloses wherein the means for matching comprises means for matching based on content of the individual programs (see Strubbe '924 at column 5, line 48-column 6, line 4 and column 3, line 59-column 4, line 2).

As to claim 18, Strubbe '924 discloses wherein the means for matching comprises means for matching based on channels frequently watched by the user (see Strubbe '924 at column 5, line 48-column 6, line 4 and column 3, line 59-column 4, line 2).

As to claim 19, Strubbe '924 discloses wherein the means for matching comprises means for matching based on programs frequently watched by the user (see Strubbe '924 at column 5, line 48-column 6, line 4 and column 3, line 59-column 4, line 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strubbe '924.

As to claim 20, while Strubbe discloses wherein the means for matching comprises means for matching based on information related to the user, he fails to specifically disclose demographic information.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize user demographic information to recommend content to the user, such as the user's age, income level and marriage status, for the typical benefit of utilizing a simple, well known means to quickly characterize a user and identify probable likes/dislikes the user may have.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Strubbe's system to include demographic information for the typical benefit of utilizing a simple, well known means to quickly characterize a user and identify probable likes/dislikes the user may have.

Conclusion

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hashimoto (5,075,771) disclosing utilizing viewer demographics to recommend programming.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda
Patent Examiner
Art Unit 2623

JS


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600